

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

XX,

Plaintiff(s)

vs.

Case No.

XX,

Defendant(s)

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**FINAL PRETRIAL STATEMENT (Required Form)<sup>1</sup>**

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This action came before the Court at a final pretrial conference held on \_\_\_\_\_ at \_\_\_\_\_ m., pursuant to Rule 16, Federal Rules of Civil Procedure.

**I. APPEARANCES:**

For Plaintiff(s):

For Defendant(s):

**II. NATURE OF ACTION AND JURISDICTION:**

A. This is an action for \_\_\_\_\_

B. The jurisdiction of the Court is invoked under Title \_\_\_\_\_,  
United States Code, Section \_\_\_\_\_.

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<sup>1</sup>A Final Pretrial Statement following this format must be jointly prepared and submitted by counsel to the Clerk of Courts not later than one week prior to the final pretrial conference.

C. The jurisdiction of the Court (is) (is not) disputed.

**III. TRIAL INFORMATION:**

A. The estimated length of trial is \_\_\_\_\_ days

B. Trial to (indicate *jury* or *bench*) has been set for \_\_\_\_\_ pursuant to the General Notice on Trial Assignment.

**IV. AGREED STATEMENTS AND LISTS:**

A. General Nature of the Claims of the Parties

1) PLAINTIFF CLAIMS: (suggested type of simple language)

“Plaintiff asserts in Count 1 a right of recovery for defendants’ negligence as follows;”

“Plaintiff asserts in Count 2 a right of recovery for defendants’ wanton and willful misconduct as follows;”

“Plaintiff asserts in Count 3 a right to punitive damages and attorney fees for the following reasons:

2) DEFENDANT CLAIMS: (suggested type of simple language)

Defendant denies liability as asserted in Counts \_\_\_\_ for the following reasons:

Defendant as an affirmative defense asserts:

3) ALL OTHER PARTIES’ CLAIMS: (same type of simple language)

B. Uncontroverted Facts

Suggested Language: “The following facts are established by admissions in the pleadings or by stipulations of counsel.” (Set forth uncontroverted or uncontested facts).

C. Issues of Fact and Law

Suggested Language:

1) “Contested Issues of Fact: The contested issues of fact remaining for decision are: (list)”

2) “Contested Issues of Law: The contested issues of law in addition to those implicit in the foregoing issues of fact, are: (list), **OR:** There are no special issues of law reserved other than those implicit in the foregoing issues of fact.”

If the parties are unable to agree on what the contested issues of fact or law are, their respective contentions as to what the issues are shall be set forth separately and clearly labeled.

D. Witnesses

Suggested Language:

1) “Plaintiff will call or will have available at trial: (list, **OR:** Plaintiff may call: (list)”

2) “Defendant will call or will have available at trial: (list), **OR:** Defendant may call: (list)”

3) \_\_\_\_\_ will call or will have available at trial (list). Use for third parties, if any)

4) “The parties reserve the right to call rebuttal witnesses whose testimony could not reasonably be anticipated without prior notice to opposing counsel.”

**NOTE:**

a) Only witnesses listed in the Final Pretrial Statement will be permitted to testify at trial, except witnesses called solely for impeachment purposes, or for good cause

shown.

b) A brief one or two sentence synopsis of the witnesses' testimony must be given – i.e., “Will testify to pain and suffering,” “Will testify to lost profits, etc.”

c) Leave to call additional witnesses may be granted by the Court in unusual situations. Counsel seeking such leave must file a Motion to Add Witnesses and serve a copy upon opposing counsel with names, addresses, and an offer of proof of such witness' testimony within twenty-four (24) hours after the need to call such witness becomes known.

d) The witnesses need not be called in the order listed.

E. Expert Witnesses

Suggested Language:

The parties are limited to the following number of expert witnesses, including treating physicians, whose names have been disclosed and reports furnished to opposing counsel:

Plaintiff \_\_\_\_\_

Defendant \_\_\_\_\_

Counsel have attached a resume of each expert's qualifications as a part of Appendix A, herein.

F. Exhibits

The exhibit list should be prepared prior to trial as set forth in the Final Pretrial Statement. Exhibits that are to be admitted without objection should be listed first, followed by a listing of exhibits to which there may be an objection, noting by whom the objection is made (only if there are multiple parties), the nature of the objection, and the authority supporting the objection. Exhibit markers should be affixed to all exhibits at the time they are shown to opposing counsel during the preparation of the Final Pretrial Statement. The exhibit stickers should be affixed to the upper right corner, whenever possible.

All exhibits are to be delivered to the Courtroom Deputy THREE DAYS prior to the commencement of trial. Any demonstrative exhibits are

to be presented to opposing counsel five days prior to trial.

Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the Final Pretrial Statement, with the exception of exhibits to be used solely for impeachment purposes.

The Final Pretrial Statement should list the exhibits as follows:

Appendix B    Joint Exhibits  
Appendix C    Plaintiff Exhibits  
Appendix D    Defendant Exhibits  
Appendix E    Third-Party Exhibits

G.            Depositions

The Final Pretrial Statement shall list depositions to be read into evidence and any objections thereto identifying the objecting party, portions objected to, and grounds therefor. All irrelevant and redundant matters and all colloquy between counsel contained in the deposition must be eliminated when the deposition is read.

Suggested Language:

“Testimony of the following witnesses will be offered by deposition (indicate by written form or video tape).” If none will be presented, indicate so.

H.            Discovery

Suggested Language:

“Discovery has been completed,” **OR** “The following provisions have been made for discovery.”

I.            Pending Motions

Suggested Language:

“The following motions are pending at this time,” **OR** “There are no pending motions at this time.”

J. Miscellaneous Orders

- 1) Set forth any orders not properly includable elsewhere; **OR**
- 2) The foregoing stipulations and statements were amended at the final pretrial conference as follows:\_\_\_\_\_

V. Modification

This Final Pretrial Statement may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel of on motion of the Court.

VI. Jury Instructions and Trial Briefs

Criminal Cases. Requests for jury instructions, including interrogatories or special verdict forms and trial briefs shall be submitted to the Court FIVE DAYS prior to commencement of trial. There is reserved to counsel the right to submit supplemental requests for instructions during trial, or at the conclusion of the evidence, but only as to matters that cannot be reasonably anticipated.

Civil Cases. Trial briefs shall be filed with the Clerk of Courts FIVE DAYS prior to the commencement of trial. See Item H, pp. 8 & 9 for deadline regarding Jury Instructions.

VII. Settlement Efforts

The parties have made a good faith effort to negotiate a settlement, **OR:**  
(describe the status of settlement negotiations)\_\_\_\_\_.

VIII. Additional Action Taken

Date: \_\_\_\_\_

\_\_\_\_\_  
Counsel for Plaintiff

\_\_\_\_\_  
Counsel for Defendant

\_\_\_\_\_  
Counsel for \_\_\_\_\_